

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

WARREN EASTERLING, :

Plaintiff/Petitioner, :

vs. : Case No. 3:14cv064

CARL HENDERSON : JUDGE WALTER H. RICE

Defendant/Respondent. :

DECISION AND ENTRY ADOPTING SUBSTITUTED REPORT AND
RECOMMENDATIONS OF THE UNITED STATES MAGISTRATE JUDGE
(DOC. #7); PETITIONER'S OBJECTIONS TO SAID JUDICIAL FILING (DOC.
#10) OVERRULED; JUDGMENT TO BE ENTERED IN FAVOR OF
DEFENDANT/RESPONDENT AND AGAINST PLAINTIFF/PETITIONER;
TERMINATION ENTRY

Pursuant to the reasoning and citations of authority set forth by the United States Magistrate Judge, in his Substituted Report and Recommendations filed March 10, 2014 (Doc. #7), as well as upon a thorough *de novo* review of this Court's file and the applicable law, said Substituted Report and Recommendations are adopted in their entirety. Plaintiff/Petitioner's Objections to said judicial filing (Doc. #10) are overruled.

In ruling as aforesaid, this Court makes the following non-exclusive observations:

1. Plaintiff/Petitioner notes in his Objections, Doc. #10 at 2, that the underlying criminal matter has been completed. If so, Plaintiff/Petitioner's remedy is a direct appeal to Ohio's Second District Court of Appeals. If the captioned cause is not

completed, in other words should Judge Henderson not have ruled on Plaintiff/Petitioner's Criminal Rule 47 motion, Plaintiff's remedy is a filing of a Petition for Writ of Mandamus to Ohio's Second District Court of Appeals, seeking an order from that Court compelling Judge Henderson to exercise his authority to rule on Plaintiff's pending motion.

2. In all other aspects, this Court agrees with the Magistrate Judge's Substituted Report and Recommendations.

Based on the aforesaid, this Court adopts the Substituted Report of the United States Magistrate Judge (Doc. #7) in its entirety, and overrules the Plaintiff/Petitioner's Objections thereto (Doc. #10). Judgment will be ordered entered in favor of Defendant/Respondent and against Plaintiff/Petitioner, dismissing the captioned cause with prejudice to a new action.

The captioned cause is ordered terminated upon the docket records of the United States District Court for the Southern District of Ohio, Western Division, at Dayton.

May 15, 2014



WALTER H. RICE
UNITED STATES DISTRICT JUDGE

Copies to:
Warren Easterling, *Pro Se*
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